

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BILLY DAVIS,

Defendant.

Case No. 8:04CR199

ORDER

This matter is before the court on the defendant's Motion for Modification of Conditions of Release [#40]. Following the filing of defendant's motion, I requested that Pretrial Services investigate the defendant's sister, Tommie Davis, as a potential third-party custodian. On May 2, 2005 I received the report of James M. Roberts, Senior United States Pretrial Service Officer. Pretrial Services does not consider the defendant's sister to be an appropriate candidate for third-party custodianship based upon the defendant's prior criminal record.

After reviewing the motion, the Pretrial Service memorandum, and the court's June 18, 2004 Order of Detention [#11], I find that a placement of the defendant with his sister as third-party custodian is not a viable alternative; and further, that under such placement the defendant is unlikely to abide by conditions of release, and that there are no conditions or combinations of conditions which will reasonably assure his presence at future proceedings and/or the safety of the community. The proposed placement fails to adequately address the court's concerns based upon the defendant's prior convictions for failure to appear and felony escape, as well as his prior use of an alias. In reaching my

conclusions I also considered whether or not the proposed placement rebuts the presumption of detention under 18 U.S.C. § 3142(e), and I find that it does not.

IT IS ORDERED:

1. The defendant's Motion for Modification of Conditions [#40] including his request for an "oral hearing" is denied without hearing.

Dated this 3rd day of May 2005.

BY THE COURT:

S/ F.A. Gossett
United States Magistrate Judge